

Sanitary Sewer Line and Branch Connection Charges

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working for clean rivers

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These are administrative rules of the Bureau of Environmental Services (BES) for the Line and Branch Charge program. See the Explanatory Information in Appendix A for applicable code citations, policies, and other information relating to these rules.

1. Applicability

All owners of new and redeveloping properties within the City of Portland must pay one-time line and branch connection charges to compensate the City's ratepayers for those properties' connections to and use of local City sanitary sewer services. Line and branch connection charges reimburse ratepayers for the collective costs to provide local sewage collection through main lines and sewer lateral branches to properties.

Properties served by nonconforming sewer systems must pay sewer conversion charges in lieu of line and branch connection charges in compliance with the Nonconforming Sewer Conversion Program Administrative Rules (PPD item ENB 4-27).

2. Purpose

The City constructs sanitary sewer facilities to collect, convey and treat wastewater from developed properties. These administrative rules describe BES decision-making regarding the calculation of line and branch connection charges.

3. Definitions

These rules use the definitions of Portland City Code (PCC) Chapter 17.36 and the following:

A. "Facial Challenge" means a challenge to a requirement that is based on an argument that the requirement cannot be applied fairly or reasonably in any situation. By contrast, an as-applied challenge is one based on an argument that a requirement should not be applied to the challenger's particular situation because of factors that, in the challenger's view, distinguish it from similar situations.

4. Regulatory Authority

A. Section 3.13.040 of the PCC authorizes development of administrative rules by the Director of BES.

B. Section 17.36.040 Subsections D & E of the PCC authorize line and branch charges to recover the costs of constructing local sanitary sewer collectors, the local portion of sanitary trunk lines or interceptors, and sewer laterals or house branches.

5. Sanitary Sewer Line Connection Charges

A. Zone of Benefit. The line charge is calculated based on the square footage of the property requiring sewer service:

- 1. Residential.** For properties zoned residential, the line charge is limited to the square footage of the property area within 100 feet of a right-of-way or easement where a sewer has been constructed or is planned for sewer construction.

2. *Non-residential Property.* For all other property, the line charge is limited to the square footage of the property area within 300 feet of a right-of-way or easement where a sewer has been constructed or is planned for sewer construction.

B. Property Measurement. BES will include the area of property measured at every point along the frontage of the sewer line that provides the route of sewer service.

1. *Extensions Beyond the End of the Sewer Line.* A street or easement line is considered as continuing 100 feet or 300 feet, depending on property classification in Section 5.A, beyond the end of the main line sewer or beyond where the sewer turns away from the property.
2. *Flag Lots.* Owners of flag, oddly shaped and landlocked properties must pay a minimum line charge based on an assumed minimum lot size of 1,200 square feet for residential properties and a minimum assumed lot size of 3,600 square feet for non-residential properties.
3. *Corner Lots.* Where a development occupies a corner location, BES will use the shorter overall frontage for residential properties and the longer overall frontage for non-residential developments to calculate the line charge.
4. *Sewer Lines Dead-ends at a Property.* In the event that a property is served at a single point of access by a sewer line that dead-ends at the boundary or access easement of a property, the line charge will not exceed 10,000 square feet for residential property and 30,000 square feet for all other property. The calculation will be made in the same manner as that used for the basic zone of benefit.
5. *Sewer Lines located in Public Easements.* BES identifies two conditions that would necessitate the placement of sewer lines in public easements, and specifies different methods for calculating line charges in each case:
 - a. The subject property can receive sanitary sewer service from either a sewer line in a public right-of-way or in a public sewer easement. Regardless of the location of the sewer connection, the lesser of the amount of access frontage from the public right-of-way or the public easement will be used for line charge calculation. BES will calculate the line charge based in the same manner as used for the basic zone of benefit.
 - b. A landlocked or interior property cannot be served by a sewer line in a public right-of-way and the development must connect to the public sewer line in the easement. BES will calculate the line charge based on the frontage along the sewer line in the public sewer easement in the same manner as used for the basic zone of benefit.

6. *Properties with Multiple Routes of Service.* Where a property is served by multiple sewer lines, the property must pay a line charge for each connection based on the zone of benefit for the route of connection. In calculating the assessable area, BES will not include overlapping areas that were used to calculate previous line charges.
7. *Adjacent Uses.* When an adjacent developed lot, as defined in Title 33.910, is under the same ownership and used in conjunction with the lot connecting to the sewer, both lots must pay a line charge for their combined frontage.
8. *Development Restrictions.* BES will exclude areas permanently prohibited from development from the line charge calculation. In the event that the City removes the prohibition, the benefited property will then be subject to additional line charges based on the area made available for development. The line charge will be imposed when the property owner, tenant or developer seeks a permit to develop, renovate, reconstruct or redevelop the property that includes any portion of the previously excluded area.

C. Adjustments to Charges:

1. *Lack of Gravity Service.* When a sewer is constructed that cannot provide gravity service, the line connection charge will be reduced by:
 - a. 50% if the property has gravity service to the first floor only and must install a pump for the basement; or
 - b. 75% if no gravity service is available for the first floor and the property must install a pump.
 - c. The adjustment awarded will not exceed the costs associated with the installation of a pump system.

6. Sanitary Sewer Branch Connection Charges

- A. Branches that Serve Vacant Property.** The City will provide sanitary sewer branches to vacant property only at the express written request of the property owner. BES will collect the resulting branch charges at the same time that line charges are paid.
- B. Branches that Serve Developed Property.** BES will provide sanitary sewer branches to serve developed property at the time sanitary sewer lines are constructed. BES will collect the resulting branch charges at the same time that line charges are paid.
- C. Multiple Branches.** The City will provide multiple branches at the expressed written request of the property owner. BES will collect the resulting branch charges at the same time that line charges are paid. In cases where the property is served by multiple branches located on multiple sanitary sewer

lines, BES will collect all branch charges located on the sanitary sewer line that is used to connect the property.

7. Administrative Review and Appeals

A person may request reconsideration of a BES decision through administrative review as described in this Section. After the requestor has exhausted all BES administrative review, the requestor may file for an appeal of a decision with the Code Hearings Officer (CHO) per Portland City Code Title 22. A person may only appeal a decision that is subject to administrative review by BES.

A. Administrative Review Requests. A person to whom a notice was addressed will have 20 business days from the date the notice was issued to submit a written request for administrative review of a decision described in the notice. The requestor must provide all information known to the requestor that supports an assertion made in the written request for administrative review. The requestor must provide such information via graphic, written, or recorded communication, or in person at the administrative review meeting. BES will hold an administrative review meeting within 15 business days of receipt of the written request for administrative review unless BES determines in its reasonable discretion that a delay is justified. The requestor may provide detailed information in writing in lieu of attending the administrative review meeting.

B. Non-Reviewable Items. A BES decision made under these rules is subject to administrative review except that BES will not grant administrative review for the following:

1. Council-adopted Line and Branch rates;
2. Any assumed minimum lot sizes;
3. BES determination of sewer location;
4. BES determination of availability of gravity service; and
5. A Facial Challenges – as that term is defined in these rules – to a requirement in these rules or associated City Code, or to any technical staff.

Note: Although a BES determination of sewer location and a BES determination of the availability of gravity service are not subject to administrative review, BES may reconsider and modify a BES staff decision on these matters based on site-specific facts. BES's final decision on these technical matters is not subject to administrative review, per section 7.B of these rules.

C. BES Evaluation. BES will use authorizing City Code, the provisions of these rules, City records, and the testimony and documentation provided by the requestor to make a final determination on the issue that is the subject of the administrative review.

E. Final Determination. BES will issue to the requestor a written final determination within 15 business days of the administrative review meeting unless BES determines that extenuating circumstances justify a reasonably longer period of evaluation. The written final determination will provide information about the process for filing an appeal to the CHO.

APPENDIX A – Explanatory Information

Sanitary Sewer Line Charges

A. City Council adopted different line charge calculations for residential and non-residential properties based on the following findings:

- The 100-foot distance to sewer estimates a zone-of-benefit that is appropriate for the dense development patterns found in residential areas. Residential areas consist of smaller parcels, a tight network of local streets and closer proximity to local sanitary sewers.
- However, the 100-foot zone is not appropriate for non-residential areas where the patterns of development are generally larger in scale, occupy larger land areas, and extend deeper into the property. Non-residential areas have fewer parcels on larger and deeper lots.
- City policies governing the apportionment of local improvement district costs define two distinct zones of benefit for local sanitary sewer improvements, a residential zone based on 100 feet of depth and a non-residential zone based on 300 feet of depth. The method used to calculate sanitary sewer line charges should be consistent with this long-standing policy. It is unfair and inequitable to continue to use two different methods to calculate the costs of local sanitary sewers, one for local improvement districts and a second for capital improvement projects.

A BES analysis of the estimated line charges for the South Airport Sanitary Sewer Project in 2004 found that the City recovered less than 50% of the costs of sewer construction when applying the 100-foot zone of benefit to this predominately industrial area of benefited properties. The 300-foot zone of benefit results in line charges that closely approximate the estimated costs of sewer construction.

B.1. The measurement criteria anticipate situations where a sanitary sewer collector pipeline ends at a point along an abutting right-of-way or easement and the benefiting property is located further along the same right-of-way or easement. This measurement criteria reinforces the 100 and 300 foot standards established by the basic zone of benefit. This criteria clarifies that the zone of benefit extends in all directions (parallel, perpendicular and all degrees in between) along the route of the sewer collector pipeline.

B.2. This criteria is intended to ensure that every property pay a fair portion of the costs of receiving sanitary sewer service, even in circumstances where the benefited property is located some distance from the sewer collector pipeline. Such properties would pay little or no charge for the benefit from local sanitary sewer service but may avoid appropriate line charges based on the standard land use based calculation method. A minimum charge ensures that such property will make some contribution towards the costs of providing the sewer service. The 1,200 square foot standard for residential property was derived from an examination of the residential development patterns in the Mid-County Sewer

Project and the typical configuration of a residential flag lot. The 3,600 square foot standard adjusts the residential standard to conform to the 300-foot zone of benefit established for non-residential properties.

B.5. There are circumstances where topography, hydrology, environmental assets, development patterns and the network of existing public rights-of-way necessitate the construction of sewer lines in public easements. In these cases, BES use of a public sewer easement advances the City's goal of providing sanitary sewer service in the most efficient and economical manner possible. In addition, the use of public sewer easements may make it possible for BES to achieve multiple public goals beyond those of the local sewer improvement. For example, it may be in the best interest of BES to construct sanitary sewer collectors in public sewer easements to avoid the environmental impacts and permitting requirements that come with sewer construction in environmental protection zones or stream corridors, or to protect unique natural resources.

B.5.a. BES constructed the sewer lines in the available public sewer easement exclusively for the following purposes:

- Completing a trunk sewer network;
- Serving landlocked developments; or
- Advancing City goals not directly related to providing sanitary sewer service.

In such circumstances, the property that grants the public easement may be exposed to line charges that are greater than those calculated based on access to the sewer in the public right-of-way. Such increased costs are a direct result of decisions made by BES to advance public goals not directly accruing to the property, and not directly related to providing sanitary sewer service to the property. By providing a method of determining line charges based on the lesser of two calculations, BES provides a means of ensuring that the subject property is not charged for the costs of public goods that are more appropriately borne by all utility ratepayers.

B.5.b By contrast, there are circumstances where BES constructs sewer lines in public easements primarily to provide sanitary sewer service to private developments. While there may be other benefits, the sewer line in the public easement is the sole method of providing an appropriate route of service for the private development. These circumstances are similar to that found with a development that abuts a sewer line in a public right-of-way, and the development served via the public easement should pay a line charge calculated in the same manner as used for the development served via the public right-of-way.

B.7 Adjacent uses include but are not limited to improved parking lots, and lots with garages or landscaping. BES determined that the benefit of providing sanitary sewer service accrues to all of the activities and improvements that are associated with the development that is connecting to the sewer collector. BES

will disregard the organization of parcels for property tax purposes and rather evaluate the extent of the "parcel" for purposes of calculating sanitary sewer line connection charges based on the extent to which neighboring tax parcels are in common use or ownership.

C.1 The City policy and practice is to provide gravity service wherever it is technically and financially feasible. However, there are circumstances where such service cannot be provided. Council recognizes the substantial costs associated with making a pumped connection to a sanitary sewer collector. In such circumstances, the pumping discount is intended to provide relief equivalent to the diminished benefit to the property and to provide an offset for extraordinary pumping costs.